

MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT

DIVISION OF CREDIT UNIONS

NEWSLETTER

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BANKRUPTCY

Most credit unions are accounting for bankrupt loans properly. However, a number of questions have arisen concerning the reporting of bankruptcies. Consistency in the industry is important. In addition, valuing the asset appropriately is essential. The primary question is will the credit union be paid.

Accounting Guidelines for Chapter 13 Bankruptcies

A. Within 30 days of receipt of the court ordered payment plan, the loan must be written down to the maximum amount designated by the court. Regardless of whether or not the loan is re-aged, the principal balance in excess of the plan should be charged off at that time.

B. The loan may be re-aged after three (3) consecutive months of compliance with the bankruptcy plan. Re-aging can only be applied to those loans receiving payments (generally secured loans).

C. If the borrower is dismissed from the plan, the loan will revert to the original contract for the purposes of delinquency reporting.

Borrowers that have filed for bankruptcy are obligated to pay loans that the credit union cannot possibly value as highly as loans that have been willingly and capably repaid. Not until a bankrupt loan has at least a small history of repayment should a credit union even consider restoring the asset to a status of those loans paid as agreed.

Accounting Guidelines for Chapter 7 Bankruptcies

A. Within 30 days of receipt of the closing notice, Chapter 7 loans not reaffirmed (or not in the reaffirmation process) must be charged off.

B. Chapter 7 loans may be reaffirmed whether the loan is paid current or is in a delinquent status at the time of reaffirmation. No minimum number of payments is required prior to the reaffirmation of a loan involved in a Chapter 7 Bankruptcy.

C. If the member fails to adhere to the terms of the reaffirmation, the delinquency status is to revert to the original contract.

Key to the re-aging and reaffirmation process is the tracking and appropriate valuation of these loans. The value must be reflected through the funding of the Allowance for Loan and Lease Loss Account.

If you have further questions regarding the reporting of bankrupt loans, please contact your examiner.

FIELD OF MEMBERSHIP UP DATE

Springfield Telephone Employees Credit Union (now **Telcomm Credit Union**) submitted an application to include those persons who reside or work in the 417 telephone Area Code and the 573 (bordered on the north by I-70) telephone Area Code. The Director approved the expansion of **Springfield Telephone Employees Credit Union** to those in the 417 Area Code, but not the 573 Area Code. The decision was published in the November 15, 2000 Missouri Register. On November 30, 2000 the Missouri Bankers Association (MBA) and Century Bank of the Ozarks (CBO) filed an appeal of the decision to the Credit Union Commission. The Commission heard the appeal on March 29, 2001. On May 24, 2001 the Commission upheld the decision of the Director. On August 16, 2001, the decision was released and the Director filed **Springfield Telephone Employees Credit Union's** amended bylaws with the Secretary of State. On September 14, 2001, the MBA and CBO filed a petition for administrative review in Cole County Circuit Court.

On November 19, 2001, a hearing was held before Judge Tom Brown, Division 1, Circuit Court of Cole County. The motion to refer the case to another division of the court was granted and the case was referred to Judge Byron Kinder, Division 2. A motion to dismiss the case for lack of standing was heard on January 3, 2002. On January 29, 2002 the court ruled the plaintiffs lack standing to maintain causes of action set forth in their petition and ordered the plaintiffs' petition be dismissed. On March 11, 2002 the MBA and CBO filed an appeal of the decision in the Western Appellate Court of Appeals. Appellant's briefs were due June 3, 2002 with the respondent's briefs due July 3, 2002. A hearing by the Western Appellate Court was held on October 3, 2002 in Kansas City. On January 14, 2003, the Appellate Court upheld the decision of Cole County Circuit Court. On January 14, 2003, the MBA and CBO filed motions for a rehearing and transfer to

the Missouri Supreme Court. The Appellate Court on March 4, 2003 denied the motions. On April 23, 2003, the Missouri Supreme Court issued an order transferring the case to their jurisdiction. On December 9, 2003 the Court reversed the decision of the lower courts and remanded the case. The opinion can be read at <http://www.osca.state.mo.us/Courts/PubOpinions.nsf/0f87ea4ac0ad4c0186256405005d3b8e/d1c9a3590b16be4286256df6006dbc43?OpenDocument>. A status hearing has been scheduled for March 22, 2004 in Cole County Circuit Court.

South Community Credit Union submitted an application for those who work or reside in Zip Codes 63109, 63111, 63116, 63123, 63125, 63128, 63129, and Crawford County, Franklin County, Gasconade County and Washington County. **Central Communications Credit Union** submitted an application for those persons who reside or work in the 816 telephone Area Code. The Director approved the applications submitted by **South Community and Central Communications Credit Unions**. These decisions were published in the November 15, 2000 Missouri Register. On November 30, 2000 the MBA and two local banks located in each of the two applicants' field of membership expansion areas filed appeals of the decisions to the Credit Union Commission. The Commission received the record of appeals from all parties on May 24, 2001. On August 9, 2001, the Commission upheld the decisions of the Director. The written decisions were released on January 25, 2002. On February 21, 2002, the MBA and the local banks filed a petition for administrative review in Cole County Circuit Court. Both cases were assigned to Judge Tom Brown, Division 1. On April 17 the cases were reassigned to Judge Byron L. Kinder, Division 2 and a motion was entered to stay the proceedings until the outcome of the Springfield Telephone Employees case was decided. The cases can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; the case numbers are 02CV323402 and 02CV323401. A status hearing has been scheduled for March 22, 2004 in Cole County Circuit Court.

Vantage Credit Union (formerly Educational Employees Credit Union) submitted an application for those who live or work in St. Louis County, St. Charles County, Jefferson County, Cape Girardeau County and Franklin County. The application was published in the December 15, 2000 Missouri Register. The Director approved the application and his decision was published in the February 15, 2001 Missouri Register. On March 1, 2001 the MBA and two banks located in the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. The Commission received the record of appeal of **Educational Employees Credit Union** on October 19, 2001 and established briefing schedules. On March 5, 2002, the Commission dismissed the appeal due to lack of

standing. On July 18, 2002 the MBA and the two banks filed a Petition in Mandamus in Cole County Circuit Court. An order by Cole County District Court staying the case was entered on December 2, 2002. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 02CV324797. A status hearing has been scheduled for March 22, 2004 in Cole County Circuit Court.

City Utilities Credit Union submitted an application for community residents and workers in Greene and Christian Counties. The application was published in the June 1, 2001 Missouri Register. The Director approved the application and his decision was published in the August 1, 2001 Missouri Register. On August 14, 2001 the MBA and a local bank located within the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. On August 8, 2002 the Commission heard and denied the appeal for lack of standing. The decision was released on December 9, 2002. On January 2, 2003, MBA and the local bank filed a Petition in Mandamus in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 03CV323001. A status hearing has been scheduled for March 22, 2004 in Cole County Circuit Court.

First Community Credit Union submitted an application for individuals who reside or work in the counties of Lincoln, Warren, Franklin, Washington, St. Francois, Ste. Genevieve, Pike, Montgomery, Gasconade and Crawford in the state of Missouri and the City of St. Louis. The application was published in the August 1, 2002 Missouri Register. The Director approved the application and his decision was published in the September 16, 2002 Missouri Register. On September 26, 2002 the MBA and a local bank located within the field of membership expansion area filed an appeal of the decision to the Credit Union Commission. On November 19, 2003 the Commission heard the appeal and accepted into evidence information provided by the parties involved. Concurrent legal briefs were filed by the established date of December 5, 2003. On January 13, 2004 the Commission upheld the decision of the Director.

Alliance Credit Union submitted an application for those who work or reside in St. Charles County or St. Louis County. The application was published in the November 15, 2002 Missouri Register. The Director approved the application and his decision was published in the January 16, 2003 Missouri Register. On January 30, 2003, the MBA and Allegiant Bank filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal and accepted into evidence information provided by the parties involved. Concurrent legal briefs were filed by the established date of December 5, 2003. On January 13, 2004 the Commission upheld the decision of the Director.

St. Louis Postal Credit Union submitted an application for those who live or work in the Zip Codes 63005, 63017, 63042, 63043, 63044, 63126, 63127 and St. Charles County. The application was published in the December 2, 2002 Missouri Register. The director approved the application and his decision was published in the January 16, 2003 Missouri Register. A fifteen calendar period for appeal must occur before the decision is final. On January 30, 2003, the MBA and Midwest Bank Centre filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal and accepted into evidence information provided by the parties involved. Concurrent legal briefs were filed by the established date of December 5, 2003. On January 13, 2004 the Commission upheld the decision of the Director.

United Community Credit Union, an Illinois chartered credit union, submitted an application for those who live or work in the Missouri counties of Lewis, Ralls and Marion. The application was published in the January 2, 2003 Missouri Register. The director approved the application and his decision was published in the February 18, 2003 Missouri Register. On March 4, 2003 the MBA and the Farmers and Merchants Bank and Trust Company filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal and accepted into evidence information provided by the parties involved. Concurrent legal briefs were filed by the established date of December 5, 2003. On January 13, 2004 the Commission upheld the decision of the Director.

Aerospace Community Credit Union submitted an application for those who live or work in the remainder of St. Louis City, St. Louis County and St. Charles County that is not currently in the **Aerospace Community Credit Union's** field of membership and those who live or work in Lincoln County. The application was published in the May 1, 2003 Missouri Register. The director approved the application and his decision was published in the July 1, 2003 Missouri Register. On July 14, 2003 the MBA and the First National Bank of St. Louis filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal and accepted into evidence information provided by the parties involved. Concurrent legal briefs have been filed. Concurrent legal briefs were filed by the established date of December 5, 2003. On January 13, 2004 the Commission upheld the decision of the Director.

Edison Credit Union submitted an application for active or retired employees of Townsend Communications, LLC, United Country Real Estate, Occu-Tec, Inc., O'Dell Service, North Kansas City electric, TimberKing, Inc., Data Source, Inc., Custom Lighting Services and immediate and household of members. The application

was published in the November 18, 2003 Missouri Register. The Director approved the application and his decision was published in the January 2, 2004 Missouri Register. The decision is now final.

Sikeston Public Schools Credit Union submitted an application for employees of Scott County R-V Public Schools in Zip Code 63801, their family members and organizations of such persons. The application will be published in the January 15, 2004 Missouri Register. The Director approved the application and his decision will be published in the March 15, 2004 Missouri Register. A fifteen calendar day period must occur before the decision is final.

Edison Credit Union submitted an application for active or retired employees of Tenneco Automotive, Yates Electric Co. Inc., Trailmobile Cash Register Sales, Martec Pharmaceutical, Inc., Martec Scientific, Inc., Carlson Systems, and Reliable Health Care. **Midwest United Credit Union** submitted an application for all eligible businesses, government entities, individuals and the immediate family of all eligible individuals who live or work in Platte County, Missouri. **Goetz Credit Union** submitted an application for those who live or work in Buchanan County, Missouri. These applications will be published in the February 17, 2004 Missouri Register. A ten business day comment period must occur before the Director can make a decision.

From the Director...

We are moving...

The Division of Credit Unions physical address will be changing effective March 31, 2004 to Harry S. Truman Building, 301 West High Street, Room 720A, Jefferson City, MO 65101. Our mailing address will remain the same at P.O. Box 1607, Jefferson City, MO 65102. Our telephone, fax and e-mail address will not change.

Examination changes...

Investment, Loan and Lease and Share Trends are now being included in the examination reports. These reports are being included as a means for management to review trends since the last examination report.

During 2004 approximately 30 days after receipt of the examination report, we will be sending a survey to the credit union's President/CEO/Manager. This survey will be used to measure the credit union's satisfaction with our examination process. We ask that you carefully complete the report and include comments that will help us improve the examination process.

Credit Union Commission meeting...

The next meeting is scheduled for April 13, 2004 at 10:30
P.M. at the Runge Nature Center in Jefferson City, MO.

*It is better to keep your mouth shut and let people think
you are a fool than to open it and remove all doubt.*

Mark Twain

A handwritten signature in black ink, appearing to read "John P. Smith".

John P. Smith, Director